

**Appendix I**  
**Consistency with Applicable Laws**  
**and Other Requirements**

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## ACRONYMS AND ABBREVIATIONS

|                      |  |
|----------------------|--|
| AI                   | Aleutian Islands   |
| BSAI                 | Bering Sea and Aleutian Islands                          |
| Council              | North Pacific Fishery Management Council                 |
| EBS                  | Eastern Bering Sea                                       |
| EFH                  | essential fish habitat                                   |
| EIS                  | environmental impact statement                           |
| EO                   | Executive Order  |
| EPA                  | Environmental Protection Agency                          |
| ESA                  | Endangered Species Act                                   |
| FMP                  | Fishery Management Plan                                  |
| GIS                  | Geographic Information System                            |
| GOA                  | Gulf of Alaska   |
| HAPC                 | habitat areas of particular concern                      |
| IRFA                 | Initial Regulatory Flexibility Analysis                  |
| Magnuson-Stevens Act | Magnuson-Stevens Fishery Conservation and Management Act |
| MMPA                 | Marine Mammal Protection Act                             |
| NEPA                 | National Environmental Policy Act                        |
| NMFS                 | National Marine Fisheries Service                        |
| RFA                  | Regulatory Flexibility Act                               |
| RIR                  | Regulatory Impact Review                                 |
| ROD                  | Record of Decision                                       |
| SFA                  | Sustainable Fisheries Act                                |
| TACs                 | total allowable catches                                  |
| USFWS                | U.S. Fish and Wildlife Service                           |

The following sections provide a review for consistency with major laws and regulations directly applicable to this action. These laws and regulations were described in Section 3.5. Consistency with other relevant laws and requirements (e.g., Executive Order [EO] for Federalism, Marine Protected Areas) will be addressed elsewhere in the Record of Decision (ROD), and/or in the decision memoranda for the proposed and final rules that implement essential fish habitat (EFH) measures.

## **I.1 National Environmental Policy Act**

This analysis was prepared in full compliance with the requirements of the National Environmental Policy Act (NEPA). All established procedures to ensure that federal agency decision makers take environmental factors into account, including the use of a public process (see Appendix A) were followed. This environmental impact statement (EIS) contains all the components required by NEPA, including a brief discussion of the need for the proposal (Chapter 1), the alternatives considered (Chapter 2), the affected environment (Chapter 3), the environmental impacts of the proposed action and the alternatives (Chapter 4), a list of document preparers (Chapter 5), and other relevant information.

## **I.2 Magnuson-Stevens Fishery Conservation and Management Act**

This analysis was prepared in accordance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and related regulatory requirements. A review of how this analysis, including the alternatives, comports with the Magnuson-Stevens Act national standards for fishery management and with the regulations implementing the EFH provisions of the Magnuson-Stevens Act is provided in this section.

### **I.2.1 Compliance with National Standards**

The following section reviews the alternatives for describing and identifying EFH, adopting an approach to identify habitat areas of particular concern (HAPCs), and minimizing the effects of fishing on EFH in terms of compliance with the national standards contained in Section 301 of the Magnuson-Stevens Act.

National Standard 1 - Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

In terms of achieving ‘optimum yield’ from the fishery, the Magnuson-Stevens Act defines ‘optimum’ as the amount of fish that will provide the greatest overall benefit to the nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems; is prescribed as such on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant economic, social, or ecological factor; and in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.

National Standard 1 thus involves a number of tradeoffs to achieve optimum yield. Overall benefits to the nation may be affected by these tradeoffs, though our ability to quantify those effects is quite limited. Nevertheless, all alternatives considered in this analysis are consistent with National Standard 1. All alternatives for describing EFH (except for no action Alternative 1) would provide additional conservation benefits by increasing attention on the location and use of habitats by managed fish species. Likewise, the alternative approaches for identifying HAPCs (except for no action Alternative 1) would provide potential conservation benefits. Some EFH fishing impact minimization alternatives (e.g., Alternatives 2 and 3) would provide additional small ecological conservation benefits at minimal economic and social costs. Other alternatives (e.g., Alternatives 4, 5A, and 5B) would provide greater

ecological and habitat conservation benefits, but at more costs to fishermen and fishing communities. Alternative 6 is also considered to have positive benefits to habitat and the ecosystem, but would result in relatively high costs to the fishing industry, associated industries, and fishing communities.

All EFH fishing impact minimization alternatives are designed to prevent overfishing. Except for Alternative 5B, which has two management options that would reduce total allowable catches (TACs) for specific species, no changes in the Council's precautionary TACs are proposed. None of the groundfish, scallop, or salmon stocks is considered overfished or subject to overfishing. For the three crab stocks that are considered overfished (Bering Sea *C. bairdi*, St. Matthew blue king crab, and Pribilof Islands blue king crab), aggressive rebuilding plans have been developed and/or implemented. Any additional measures taken to conserve EFH may result in benefits to Fishery Management Plan (FMP) species; however, the effects are not projected to be substantial relative to existing stock conservation and management measures.

Overall yields from one or more of the stocks may be affected by the suite of proposed actions. All alternatives to the status quo for minimizing the effects of fishing on EFH would be expected to reduce yields, with the scale of foregone yields generally increasing from Alternative 1 through Alternative 6. While differential distributional impacts among fishing vessels and processing sectors are implied by a comparison of the alternatives, the overall net benefits to the nation from the EFH fishing impact minimization alternatives under consideration cannot be quantified at this time.

National Standard 2 - Conservation and management measures shall be based upon the best scientific information available.

The information used in this analysis includes recent scientific literature, summary information from administrative reports, fish ticket data (through 2001), observer data (through 2001), and other relevant information. The information in this analysis represents the most current, comprehensive set of information available, recognizing that some significant information, including ecological, biological, economic, and sociocultural information, is unavailable. The portion of the analysis that evaluates the effects of fishing on EFH (Appendix B) incorporates the results of an independent peer review by the Center for Independent Experts. The National Marine Fisheries Service (NMFS) undertook that review expressly to ensure that the final analysis is based upon the best available scientific information. Each of the alternatives was analyzed based on information that appears to be consistent with this standard to the fullest extent practicable. However, as noted in Section 4.5.1.3 of the EIS, EFH description alternatives 1, 2, and 6 are not consistent with National Standard 2.

National Standard 3 - To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

All alternatives appear to be consistent with this standard. The groundfish, crab, salmon, and scallop stocks will continue to be managed as units throughout their respective ranges, consistent with the agency's understanding of the dynamics of these stocks and international agreements.

National Standard 4 - Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be (A) fair and equitable to all such fishermen, (B) reasonably calculated to promote conservation, and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

None of the alternatives makes explicit or implicit differentiation among residents of different states, and no direct allocation or assignment of fishing privileges is included in any of the alternatives.

National Standard 5 - Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.

Economic efficiency in the utilization of fishery resources is an explicit element of all alternatives analyzed. The analysis presents information relative to these perspectives, but does not point to a preferred alternative in terms of this standard. National Standard 5 recognizes the importance of various other issues in addition to economic efficiency. Not the least of these, in the current case, is the objective to protect marine ecosystems (that is, EFH in the Bering Sea and Aleutian Islands [BSAI] and the Gulf of Alaska [GOA]).

National Standard 6 - Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

Limitations imposed by the EFH fishing impact minimization alternatives would likely reduce the flexibility of fishermen to respond to variations among many FMP fisheries, fisheries resources, and catches. While the proposed alternatives take these effects into account, they are balanced with the requirement to achieve the primary objective of the action, which is to minimize, to the extent practicable, the adverse effects on EFH caused by fishing.

National Standard 7 - Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

Protection of EFH is a new requirement under the Sustainable Fisheries Act (SFA). The Council has taken prior conservation actions; however, this action represents the first comprehensive look at conservation measures designed expressly to protect EFH. As described earlier, some alternatives would impose more costs than others. Decision makers must balance conservation benefits with economic costs, consistent with the management objectives specified in this analysis.

National Standard 8 - Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

Many of the coastal communities in Alaska and the Pacific Northwest participate in these GOA and BSAI fisheries, in one way or another, whether it be as host to processing facilities and support businesses or as the harbor/home/operating port to vessel operators, fishermen, and processing workers. Major ports in Alaska that process catch from the EBS and GOA include Dutch Harbor, St. Paul, Akutan, Sand Point, King Cove, Chignik, Kodiak, Seward, Cordova, Juneau, Sitka, Petersburg, and Ketchikan. Additionally, Washington and Oregon are home ports to many catcher vessels, and Washington is home port to many of the catcher-processor vessels operating in these fisheries. In terms of potential impacts resulting from the proposed suite of EFH fishing impact minimization alternatives, the analysts reviewed data on 1) harvest levels by vessel in each sector; 2) price and revenues resulting from that harvest; 3) where those harvests are traditionally delivered for processing or for first wholesale (in the case of catcher-processors), and 4) the home port of vessels engaged in each fishery.

Much of the information used in the detailed economic and socioeconomic analysis cannot be presented in its disaggregate form due to confidentiality restrictions, but it is summarized qualitatively. The information presented in the EIS does not attempt to trace the full economic impact of these revenue changes through all of the communities involved, nor does the analysis attempt to predict overall changes in such economic activity for the region from the proposed alternatives. Instead, it is provided as a broad indicator of the relative importance of the FMP and state of Alaska managed target fisheries to vessels from these communities in the recent past, and it provides insight into significant localized community impacts that could result from adoption of the different alternatives.

National Standard 9 - Conservation and management measures shall, to the extent practicable, (A) minimize bycatch, and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

None of the alternatives would be expected to substantially change the amount of bycatch or the mortality of bycatch taken incidentally in the fisheries. Regulatory provisions that are in place at present (e.g., improved retention/improved utilization and prohibited species caps) will continue to provide incentives to fleets to minimize bycatch and mortality of such bycatch to the maximum extent practicable.

National Standard 10 - Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

The suite of alternatives appears to be consistent with this standard, while simultaneously achieving the mandate to minimize, to the extent practicable, adverse effects on EFH caused by fishing. None of the changes in the proposed alternatives would substantially change safety considerations for fishing vessels. Nonetheless, fishing in the EBS, AI, and GOA is a high-risk enterprise, fraught with potential dangers. The suite of alternatives for minimizing the effects of fishing on EFH, with the exception of the status quo (Alternative 1), would affect all sizes of vessels, including the smallest vessel classes, and impose area closures that would affect the flexibility of operations by some fleet components.

## **I.2.2 Compliance with Magnuson-Stevens Act Provisions and Regulations for EFH**

This section provides a review of how this analysis addresses the required EFH contents of FMPs as specified in Section 303(a)(7) of the Magnuson-Stevens Act and the EFH final rule (50 CFR 600 Subpart J).

**(1) Description and identification of EFH.** This analysis provides alternatives that would describe and identify EFH in text that clearly states the habitats or habitat types determined to be EFH for each life stage of the managed species. The alternatives explain the physical, biological, and chemical characteristics of EFH and, if known, how these characteristics influence the use of EFH by the species/life stage. All EFH alternatives considered identify the specific geographic location or extent of habitats described as EFH. Maps of the geographic locations of EFH, or the geographic boundaries within which EFH for each species and life stage is found, for all alternatives considered are provided in Appendix D.

For all EFH description alternatives, the description of EFH provides information on the usage of various habitats by each managed species. Information is included on the geographic range and habitat requirements by life stage, the distribution and characteristics of those habitats, and current and historic stock size as it affects occurrence in available habitats. Appendices D and F, as well as Chapter 3 of this

EIS, provide information that summarizes the life history information in text, tables, and figures to explain each species' relationship to, or dependence on, various habitats.

Proposed descriptions and identification of EFH were based on the best available sources, including peer-reviewed literature, unpublished scientific reports, data files of government resource agencies, fisheries landing reports, and other sources of information. The best scientific information available was used in the description and identification of EFH, consistent with National Standard 2.

All EFH description alternatives include maps that display, within the constraints of available information, the geographic locations of EFH or the geographic boundaries within which EFH for each FMP managed species and life stage is found. The data used for mapping were incorporated into a geographic information system (GIS) to facilitate analysis and presentation.

**(2) Fishing activities that may adversely affect EFH.** This EIS contains an evaluation of the potential adverse effects of fishing on EFH, including effects of each fishing activity regulated under the affected FMPs or other federal FMPs, based upon the best scientific information available at the time of development (see Appendix B). This evaluation considers the effects of each fishing activity on each type of habitat found within EFH. Additionally, the evaluation describes each fishing activity, reviews and discusses all available relevant information (such as information regarding the intensity, extent, and frequency of any adverse effect on EFH; the type of habitat within EFH that may be affected adversely; and the habitat functions that may be disturbed), and provides conclusions regarding whether and how each fishing activity adversely affects EFH. The evaluation also considers the cumulative effects of multiple fishing activities on EFH.

The alternatives considered in this EIS were designed to minimize to the extent practicable adverse effects from fishing on EFH, including EFH designated under other federal FMPs. The regulations require that Councils must act to prevent, mitigate, or minimize any adverse effects from fishing, to the extent practicable, if there is evidence that a fishing activity adversely affects EFH in a manner that is more than minimal and not temporary in nature, based on the fishery evaluation (see Appendix B) and/or the cumulative impacts analysis (see Section 4.4 of this EIS). The EIS identifies a range of potential new actions that could be taken to address adverse effects on EFH (Section 2.3) and contains an analysis of the practicability of potential new actions (Section 4.5), which will allow the Council and NMFS to consider adopting any new measures that are necessary and practicable. Once the Council has taken final action, the EIS will be revised to explain the reasons for the Council's conclusions regarding the past and/or new actions that minimize to the extent practicable the adverse effects of fishing on EFH.

**(3) Non-Magnuson-Stevens Act fishing activities that may adversely affect EFH.** Fishing activities not managed under the Magnuson-Stevens Act that may adversely affect EFH are identified and discussed in Section 4.3.

**(4) Non-fishing related activities that may adversely affect EFH.** Appendix G identifies and discusses activities other than fishing that may adversely affect EFH. For each activity, the known and potential adverse effects to EFH are described.

**(5) Cumulative impacts analysis.** A cumulative impact analysis is provided in Section 4.4.

**(6) Conservation and enhancement.** The rule requires that FMPs must identify actions to encourage the conservation and enhancement of EFH, including recommended options to avoid, minimize, or compensate for any adverse effects, including effects of non-Magnuson-Stevens Act fisheries, non-



fishing related activities, and cumulative effects. Conservation and enhancement recommendations are included in the current FMPs. Appendix G also recommends measures to promote the conservation and enhancement of EFH.

**(7) Prey species.** This EIS considers the loss of prey and its potential for adverse effect on EFH and managed species in Chapter 4.

**(8) Identification of habitat areas of particular concern.** This EIS describes alternative methods for identifying and describing HAPC. Concurrent with this EFH EIS, the Council is implementing a process to identify site-specific HAPCs. The HAPC process is described in Appendix J. Final regulations implementing HAPC identification, if any, and any associated management measures that result from this process, will be promulgated no later than August 13, 2006, and will be supported by appropriate NEPA analysis.

**(9) Research and information needs.** Recommendations for research to improve upon the description and identification of EFH, the identification of threats to EFH from fishing and other activities, and the development of conservation and enhancement measures for EFH, were previously adopted under Amendments 55/55/8/5/5.

**(10) Review and revision of EFH components of FMPs.** The Council and NMFS will periodically review the EFH provisions of FMPs and revise or amend EFH provisions as warranted based on available information. New EFH information is included as part of the annual Stock Assessment and Fishery Evaluation reports. A complete review of all EFH information should be conducted as recommended by the Secretary, but at least once every 5 years.

**(11) Development of EFH recommendations for Councils.** NMFS has developed written recommendations to assist the Council in the identification of EFH, adverse impacts to EFH, and actions that should be considered to ensure the conservation and enhancement of EFH for each FMP. These recommendations are included in Appendix E.

**(12) Relationship to other fishery management authorities.** To the extent practicable, the Council has coordinated with state and interstate fishery management agencies regarding the management of fisheries and the development of the EFH provisions of Council FMPs.

### **I.2.3 Fisheries Impact Statement (Spillover Impacts)**

Section 303(a)(9) of the Magnuson-Stevens Act requires that any management measure submitted by the Council take into account potential impacts on the participants in the fisheries, as well as participants in adjacent fisheries. Impacts to participants in the FMP and state-managed fisheries is one of the topics of Chapter 4.3 of this EIS. Under several of the EFH fishing impact minimization alternatives, potential impacts to other fisheries could result from changes in areas open to bottom contact fishing, because vessels that may be constrained by these closures may redeploy their fishing effort into areas where other fisheries traditionally operate, creating gear conflicts. For example, bottom trawl fisheries constrained by closures in the usual EBS rock sole with roe fishing grounds may be displaced onto grounds normally fished by longline catcher-processors.

### **I.3 Executive Order 12866 – Regulatory Impact Review**

The requirements for all regulatory actions specified in EO 12866 are summarized in the following statement from the order: *In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environment, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.*

The EO requires a determination of whether an action is “significant,” as that term is defined under EO 12866. This determination is found in a Regulatory Impact Review (RIR). An RIR is included with this EIS in Appendix C.

### **I.4 Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA), first enacted in 1980, was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA emphasizes predicting significant adverse impacts on small entities as a group distinct from other entities and considering alternatives that may minimize the impacts while still achieving the stated objective of the action. When an agency publishes a proposed rule, unless it can provide a factual basis upon which to certify that no such adverse effects will accrue, it must prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact of the proposed rule on small entities. An IRFA for this action is included with this analysis in Appendix C.

### **I.5 Executive Order 12898 – Environmental Justice**

EO 12898 focuses on environmental justice in relation to minority and low-income populations. The Environmental Protection Agency (EPA) defines environmental justice as the “fair treatment for people of all races, cultures, and incomes, regarding the development of environmental laws, regulations, and policies.” This executive order was spurred by the growing need to address the impacts of environmental pollution on particular segments of our society. This order (Environmental Justice, 59 Fed. Reg. 7629) requires each federal agency to achieve environmental justice by addressing “disproportionately high and adverse human health and environmental effects on minority and low-income populations.” The EPA responded by developing an environmental justice strategy that focuses the agency's efforts in addressing these concerns. To determine whether environmental justice concerns exist, the demographics of the affected area should be examined to ascertain whether minority populations and low-income populations are present. If so, a determination must be made as to whether implementation of the alternatives may cause disproportionately high and adverse human health or environmental effects on these populations. Environmental justice concerns typically embody pollution and other environmental health issues, but the EPA has stated that addressing environmental justice concerns is consistent with NEPA; thus, all federal agencies are required to identify and address these issues. Each alternative in this analysis has been evaluated in terms of its effects related to environmental justice. The results are provided in Appendix C.

## **I.6 Executive Order 13175 - Tribal Coordination**

E.O. 13175 is intended to ensure regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications. Alaska Native groups are recognized as Indian tribes under E.O. 13175. To meet the intent of E.O. 13175, NMFS encouraged Alaska Native participation in the numerous public meetings held during the development of the EIS. These meetings were held in various locations throughout Alaska, including rural settings, to ensure ample vetting to Alaska Native groups and to receive their input. Furthermore, the Council includes an Alaska Native representing the Community Development Program (a program specifically designed to benefit Alaska Natives) as a voting member. NMFS will continue to work with Alaska Native groups during implementation of the EFH provisions of Council FMPs.

## **I.7 Marine Mammal Protection Act**

The Marine Mammal Protection Act (MMPA) establishes a federal responsibility to conserve marine mammals, with management responsibility for cetaceans (whales) and most pinnipeds (seals) vested with the Department of Commerce, NMFS. The Department of the Interior, U.S. Fish and Wildlife Service (USFWS), is responsible for all other marine mammals in Alaska, including sea otters, walrus, and polar bear. Congress found that certain species and population stocks of marine mammals are or may be in danger of depletion due to human activities. Congress also declared that marine mammals are resources of great international significance and should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management. Species listed under the Endangered Species Act (ESA) that occur in the management area are discussed in Section 3.2.3 of the EIS. Marine mammals not listed under the ESA that may be present in the BSAI management area include cetaceans, [minke whale (*Balaenoptera acutorostrata*), killer whale (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), and the beaked whales (e.g., *Berardius bairdii* and *Mesoplodon* spp.)] as well as pinnipeds [Pacific harbor seal (*Phoca vitulina*), northern fur seal (*Callorhinus ursinus*), Pacific walrus (*Odobenus rosmarus*), spotted seal (*Phoca largha*), bearded seal (*Erignathus barbatus*), ringed sea (*Phoca hispida*) and ringed seal (*Phoca fasciata*)], and the sea otter (*Enhydra lutris*). The primary management objective of the MMPA is to maintain the health and stability of the marine ecosystem, with a goal of obtaining an optimum sustainable population of marine mammals within the carrying capacity of the habitat. The MMPA is intended to work in concert with the provisions of the ESA. The Secretary is required to give full consideration to all factors regarding regulations applicable to the "take" of marine mammals, including the conservation, development, and utilization of fishery resources, as well as the economic and technological feasibility of implementing the regulations. If a fishery affects a marine mammal population, then the potential impacts of the fishery must be analyzed in the appropriate environmental assessment or EIS, and the Council or NMFS may be asked to consider regulations to mitigate adverse impacts.

A review of the effects of the alternatives on marine mammals is provided in Chapter 4. For EFH description and HAPC identification alternatives, there are no known interactions between implementation of the alternatives under consideration and any ESA-listed species. However, evaluation of the alternatives to minimize the potential adverse effects of fishing on EFH suggests that some alternatives (Alternatives 5B and 6) may result in adverse impacts on some marine mammal species because of the potential for an increase in spatial and temporal concentration of fishing effort. In particular, concentration of the AI Atka mackerel fishery under these alternatives may result in negative effects on Steller sea lions by affecting localized prey availability. Additionally, concentration of fishing effort could result in increased "takes" of great whales by increasing the incidence of their collision with ships, should fishing occur in areas where whales aggregate.

## **I.8 Endangered Species Act**

The ESA (16 U.S.C. § 1531-1544), amended in 1988, establishes a national program for the conservation of threatened and endangered species for fish, wildlife, and plants, and the habitat on which they depend. Section 7(a)(2) of the ESA requires that federal agencies consult with the USFWS and NMFS, as appropriate, to ensure that their actions are not likely to jeopardize the continued existence of any threatened or endangered species or result in the destruction or adverse modification of their designated critical habitat. Section 7(b) of the ESA requires the USFWS and NMFS to summarize consultations in biological opinions that detail how actions may affect threatened or endangered species and designated critical habitat.

As previously discussed, some of the alternatives (5B, 5C, and 6) to minimize the potential adverse effects of fishing on EFH may result in adverse impacts on some marine mammal species because of the potential for an increase in spatial and temporal concentration of fishing effort. In particular, concentration of the AI Atka mackerel fishery under these alternatives may result in negative effects on ESA-listed Steller sea lions by affecting localized prey availability. Additionally, concentration of fishing effort could result in increased takes of ESA-listed great whales by increasing the incidence of their collision with ships, should fishing occur in areas where whales aggregate. NMFS considered the effects of preferred Alternative 5C on listed whales and sea lions pursuant to Section 7 of the ESA and concluded that the proposed measures are not likely to adversely affect threatened or endangered species or critical habitat.

## **I.9 Coastal Zone Management Act**

Implementation of each of the alternatives would be conducted in a manner consistent, to the maximum extent practicable, with the Alaska Coastal Management Program within the meaning of the Coastal Zone Management Act of 1972 and its implementing regulations.